



Town of Carlisle

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Office of

PLANNING BOARD

MINUTES

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April 11, 2005

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Upcoming planning seminars

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (executive session)

PB Chair **Louise Hara** called the meeting to order at 7:30 p.m. in the Clark Room at Town Hall. Board members **David Freedman, Ray Bahr, Rich Boulé, Kent Gonzales, Peter Stuart**, and **Phyllis Zinicola** were present, along with Planning Administrator **George Mansfield** and PB Administrative Assistant **Helen Boos**. **Erika Anderson** from the *Mosquito* was also present.

Minutes

The minutes of the last meeting were reviewed and amended. Freedman **moved to accept the minutes of March 28, 2005 as amended**. Bahr seconded the motion and it carried 6-0-1 (with Stuart abstaining).

Budget

The PB reviewed the budget update. There were no issues.

Town Meeting – PB meeting schedule

The PA reported that the possible dates for a second PB meeting in May conflict with dates set for Town meeting and elections. The PB agreed to hold only one meeting in May on 5/9/05.

Staff Performance Evaluation

The PA explained that it is the time of year for staff evaluations, that the evaluation forms are the same as last year, and that they will be available on the Carlisle Town Hall server after 4/15.

Benfield Parcel A Planning Task Force update from Phyllis Zinicola

Zinicola reported that the planning meeting was very well-attended, that the architect presented Plan A and Plan B with the ball field situated in the front versus back of the parcel, with opinion divided fairly evenly between the two plans. Attendees listed high-priority topics as being safety; costs; Indian artifacts; the need for fencing and, if the ball field is next to the road, the need for some kind of barrier; and the impact on the neighborhood. She said the Task Force is planning to get a better breakdown of the cost difference between the two plans, especially the cost of ledge blasting that would be required in Plan B, as well as a better look at timing scenarios, especially in regards to phasing the project. She said there was also discussion of involving Habitat for Humanity to build the homes, but that it would involve significant phasing.

In response to Zinicola's request for PB input, members generally expressed support for Plan A over Plan B because:

- it would be easier to complete the project in phases, and thereby stagger the costs.
- the potential for going over budget seems greater in Plan B because the ledge could prove more difficult to manage than anticipated (as had happened at Banta-Davis).
- Plan A seems to allow for future expansion of housing.

Members asked if there was any discussion of people not being able to find the ball field if it is located at the back of the development. Zinicola said that this was not discussed, but that there had been concern about the safety of having the ball field next to the street.

Members asked if there has been any discussion of going through the wetlands as a way to reduce disruption at the site (with a shorter, more direct road), and to create better sight distance at the entrance onto South Street. Zinicola reported that they have discussed it, but that going through wetlands would involve a completely different review procedure and time frame because they would be working with the Army Corps. of Engineers.

Zinicola reported that the PDF (Priority Development Fund) grant proposal was denied because some of the work had already been contracted and paid for. She suggested that the Task Force contact the Town's State representatives to contact DHCD to reconsider.

Wireless Bylaw Subcommittee

Boulé reported that he, Gonzales and Bahr have been reviewing the documents forwarded by Freedman. He said they are ready to begin goal-setting meetings, and that once they decide when and where to meet, they will post the meetings with 48-hour notice, as required.

GIS

Hara reported that she and Janice Bernsee are reviewing a sample of the work done by Applied Geographics and have found that the line work is complete but some is on the wrong layer. They also found a registration problem involving the wetlands layer and the flood hazard layer. She said that Applied Geographics felt the errors are minor but time-consuming to correct. Bernsee, Mansfield, and Hara will identify the errors and continue meeting with AG to get the problems resolved.

The Board discussed Applied Geographics' request for a reference. The Board asked Mansfield to send a letter to the president of AG expressing willingness to give a favorable reference once certain deliverables have been completed.

Affordable Housing Task Force update from David Freedman

Freedman reported that the Affordable Housing Task Force met on 4/10/05. He said they had reviewed the first draft of the needs assessment and returned comments to Sunnarborg, and that Sunnarborg will contact Jack Bromley who will provide real estate information. He said that the Task Force plans to present a mini-report to the Selectmen in mid-May. The Task Force also discussed the Selectmen's proposal to fund an Accessory Apartment/Housing Coordinator to help implement the Affordable Housing Plan once it is completed.

Gonzales said the Community Preservation Committee will have a meeting on 4/24/05 to discuss the Selectmen's request for funding a housing coordinator, and another meeting on 4/27/05 to vote on the issue. He said he will not be able to attend the meeting on 4/27 and asked for an alternate to take his place; the PA said that no other member may vote without being approved. The Board asked Gonzales to communicate the PB's recommendations at the discussion on 4/24.

The PB then discussed this proposal. Board members expressed doubts about the likelihood that deed-restricted accessory apartments would have much of an impact on Carlisle's total of affordable units and thus, about the advisability of spending \$10,000 on an Accessory Apartment Coordinator. The Board concluded that they could support a more general request for funding to begin implementation of whatever strategies were included in the final approved Affordable Housing Plan.

The Board discussed the number of accessory apartments currently in Carlisle, noting that there are eleven legal apartments (none of which are deed-restricted), but a number of illegal apartments that could be brought up to code and deed-restricted to count towards the quota. The PA noted that the Town of Barnstable offered amnesty and funds that have successfully prompted property owners to come forward and legalize their illegal accessory apartments.

The PA reported that there is a Massachusetts Association of Planning Directors meeting to discuss Barnstable's Innovative Housing Programs (primarily accessory apartments) on 4/15/05. The PB authorized the PA to attend and find out the following:

- Why does the plan work in Barnstable?
- If Barnstable provides funds as incentive, what does the property owner have to do in return?
- How does Barnstable handle enforcement?

Discussion of potential amendments to Conservation Cluster Special Permit Rules and Regulations (Request of Conservation Commission)

Members of the Carlisle Conservation Commission **Roy Watson** (chair), **Tricia Smith**, and **Peter Burn**, as well as **Sylvia Willard**, Conservation Commissioner were present.

Members of Carlisle Conservation Commission suggested that PB and ConsCom work together to review and possibly revise some of the Town's bylaws and regulations. Smith explained that the ConsCom's main concern is how to reduce intrusion into wetlands areas, giving the example of homes with upland areas just big enough for the home and septic system, with much of the rest of the lot wetland. Watson explained that the owners of these homes have to get an order of conditions from ConsCom in order to use their land in completely ordinary ways, such as to build backyard or a swimming pool, which involves significant intrusion into the buffer zone. Smith said there are also lots with so little upland that the septic system is built on upland, and the home itself is built in the buffer zone. She said there are also issues of storm water runoff and chemical use infiltrating the wetlands and then contaminating the Town's aquifers. Freedman asked if the Town has a history of contaminated wells, or if the ConsCom sees this problem in the future; Smith said that there have been water quality problems in the center of Carlisle, which were solved by drilling deeper wells.

Smith said they are proposing to examine ways to change the bylaws to ensure that home buyers are getting property that will be usable without having to intrude significantly into the buffer zone, such as requiring a certain percentage of each lot to be upland or limiting the number of bedrooms in a dwelling if the percentage of upland was lower, which she said Westford has already done. She said that ConsCom has not done any research yet because they wanted to find out first if the PB is interested in working on this problem.

PB members agreed that they are interested in reviewing Carlisle's zoning, but pointed out that certain aspects of the current bylaws were written with the objective of getting a two-thirds vote at Town Meeting, and that it may not be easy to get enough support to change the bylaws. Watson said that he believes that the climate in Carlisle has changed and may now support reasonable regulation to protect wetlands that will, in turn, protect the property value of the whole area.

Smith asked if the PB can review wetland or topography on the plans brought before the PB. The PA said that ANRs do not show topography; he said that subdivision plans show more regarding wetland and topography, but that the PB only reviews the layout of the roadways. He said that a lot can be a hundred percent wetland and still be approved as part of the subdivision. He said conservation clusters adhere to the same standards as subdivisions (except dimensional standards), but conservation clusters allow more control by requiring at least fifty percent of the open space to be upland.

Also discussed were existing conservation clusters in Carlisle that are effective and ineffective; State regulations, and loopholes around State and local regulations; the pros and cons of more stringent enforcement of the regulations; more regulation of pesticide use; the impact of 40B development; the impact of Carlisle's trend toward larger homes; and the impact of further regulation on property values.

Members of both boards agreed to discuss the issue further. The ConsCom said they will research the details that need to be addressed and then arrange a time for further discussion with the PB.

Discussion of abutters' concerns with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (request of Keith Therrien, 78 Berry Corner Lane)

Residents of Berry Corner Lane were present as follows: **Keith Therrien** of 78 Berry Corner Lane (who has lived there for 12 years) **Mary Bennett** of #125 (2 years), **Sami Nuwayser** of #93 (1 year), and **Thierry Copie** of #69 (13 years). The other residents, Laura and Michael Baliestiero of #157, were not able to attend this meeting.

Therrien explained that the residents wanted to meet with the PB in order to make their concerns known and discuss ways to resolve the litigation. Therrien said that the residents met to discuss the particulars of the case and how to resolve it, and that they feel that the maintenance agreement is the main issue. He explained the main objectives of the maintenance agreement that they drafted as follows:

- The lane must pass all PB regulations.
- It must pass inspection by Town engineer.
- The road must have a topcoat.
- The residents will not be responsible for road costs (because it is meant to be a tradeoff with Vale and Valchuis in exchange for agreeing to allow them to build on their lot).
- Maintenance of the road must be agreed on and paid for by all six owners.
- Other points that are typically found in maintenance agreements are also included.

The PB suggested that another objective, calling for restrictions on tree cutting on the east side of the new lot because it would be too close to Therrien's home, was more appropriate in a separate covenant, rather than the maintenance agreement.

Bennett, Nuwayser, and Copie said that they (and Baliestiero, but not Therrien) believe they have part ownership of the road (not just common interest in the road) as stated on their separate deeds, and that they have been paying taxes on their portions of the road as well as sharing the cost of maintenance. There also seems to be a deed showing that Berry Corner Lane is itself a separate lot. Therrien's deed grants only right-of-way but shares the cost of maintenance of the road. They said there is a maintenance agreement in the registry of deeds signed by the five owners. Nuwayser said that he would scan and email (to Mansfield) copies of all the documentation he has about this issue. Therrien gave Mansfield a copy of their draft of the maintenance agreement. Nuwayser pointed out that, while their draft of a maintenance agreement is a good framework, he felt it is not ready to be signed as is.

Bennett explained how surprised she and her husband were after moving into their home and then finding out about the lawsuit. Nuwayser explained that all the abutters have a *Lis Pendens* on their homes, making it very difficult to refinance. Therrien said they decided to come forward now because they feel the discussions need to move forward, and that the PB needs to be part of the discussions. Nuwayser said they would rather reach closure on the dispute than block Vale and Valchuis from developing their lot. Therrien asked what happens next, and the PB said the next steps will have to be discussed by the Board in executive session.

The PB thanked the abutters for their attendance, for bringing their concerns to the Board, and for bringing the Board up to date. The PB explained that any failure on their part to communicate with the abutters was due to the pending litigation rather than any desire to keep them out of the loop.

Request for comments on “Emergency Access Plan” prepared for Costello property including and adjacent to 216 Cross Street and Bingham Road

The PA reported that the developer is taking the comments from the Fire Dept. into consideration, and he expects a cluster plan to be submitted for a hearing in June.

Proposed PB site walk on East Street (request of Shawn Flynn)

The PB scheduled a site walk for a proposed pedestrian pathway on East Street (in preparation for a Scenic Road hearing on 5/9/05). Members proposed Monday, 5/2/05 at 7a.m. for the site walk. The PA will check with Sean Flynn and send email to confirm.

Discussion of PB participation in Senior Tax Relief Program

The PA asked if the PB wants to participate in the Senior Tax Relief Program, which allows seniors to work 75 hours for the Town in exchange for tax relief, and which begins in September. The PB asked the PA to consider the Board’s work requirements and report back to the PB.

Upcoming planning seminars

The Board reviewed notices for two upcoming seminars: ArcGIS Desktop training, 5/26/05 (free); and Comprehensive Planning seminar at the Lincoln Institute of Land Policy, 5/4/05 (\$100). Freedman, Hara, and Boulé said they may be able to attend, to be decided later.

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board, Berry Corner Lane, Map 7, Parcel 29 (executive session)

Freedman moved and Bahr seconded a **motion to go into executive session to discuss pending litigation regarding Berry Corner Lane, not to return to regular session.** The Board was individually polled and unanimously agreed to the motion.

At 11:20, Stuart moved and Freedman seconded a **motion to come out of executive session and to adjourn.** The Board was individually polled and unanimously agreed to the motion.

Respectfully submitted,

Helen Boos
Administrative Assistant